

## Commodity Futures Trading Commission

## § 38.650

transfer customers, or otherwise protect customers in the event of a default of a clearing member or the derivatives clearing organization.

### § 38.604 Financial surveillance.

A designated contract market must monitor members' compliance with the designated contract market's minimum financial standards and, therefore, must routinely receive and promptly review financial and related information from its members, as well as continuously monitor the positions of members and their customers. A designated contract market must have rules that prescribe minimum capital requirements for member futures commission merchants and introducing brokers. A designated contract market must:

- (a) Continually survey the obligations of each futures commission merchant created by the positions of its customers;
- (b) As appropriate, compare those obligations to the financial resources of the futures commission merchant; and
- (c) Take appropriate steps to use this information to protect customer funds.

### § 38.605 Requirements for financial surveillance program.

A designated contract market's financial surveillance program for futures commission merchants, retail foreign exchange dealers, and introducing brokers must comply with the requirements of § 1.52 of this chapter to assess the compliance of such entities with applicable contract market rules and Commission regulations.

### § 38.606 Financial regulatory services provided by a third party.

A designated contract market may comply with the requirements of § 38.604 (Financial Surveillance) and § 38.605 (Requirements for Financial Surveillance Program) of this part through the regulatory services of a registered futures association or a registered entity (collectively, "regulatory service provider"), as such terms are defined under the Act. A designated contract market must ensure that its regulatory service provider has the capacity and resources necessary to provide timely and effective regu-

latory services, including adequate staff and appropriate surveillance systems. A designated contract market will at all times remain responsible for compliance with its obligations under the Act and Commission regulations, and for the regulatory service provider's performance on its behalf. Regulatory services must be provided under a written agreement with a regulatory services provider that shall specifically document the services to be performed as well as the capacity and resources of the regulatory service provider with respect to the services to be performed.

### § 38.607 Direct access.

A designated contract market that permits direct electronic access by customers (i.e., allowing customers of futures commission merchants to enter orders directly into a designated contract market's trade matching system for execution) must have in place effective systems and controls reasonably designed to facilitate the FCM's management of financial risk, such as automated pre-trade controls that enable member futures commission merchants to implement appropriate financial risk limits. A designated contract market must implement and enforce rules requiring the member futures commission merchants to use the provided systems and controls.

## Subpart M—Protection of Markets and Market Participants

SOURCE: 77 FR 36700, June 19, 2012, unless otherwise noted.

### § 38.650 Core Principle 12.

The board of trade shall establish and enforce rules:

- (a) To protect markets and market participants from abusive practices committed by any party, including abusive practices committed by a party acting as an agent for a participant; and
- (b) To promote fair and equitable trading on the contract market.